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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/346,436	07/01/1999	THEODORE W. HOUSTON	TI-21004	2434

23494 7590 09/27/2002

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EXAMINER

KIELIN, ERIK J

ART UNIT	PAPER NUMBER
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2813

DATE MAILED: 09/27/2002

21

Please find below and/or attached an Office communication concerning this application or proceeding.



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21

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Commissioner of Patents and Trademarks

Gliik Chaudhuri
Supervisory Patent Examiner
Technology Center 2800

Art Unit: 2813

**NOTIFICATION OF NON-COMPLIANCE WITH
THE REQUIREMENTS OF 37 CFR 1.192(c)**

The Supplemental Appeal Brief is defective for stating, "...all claims have been canceled with the exceptions of claims 9 and 22 which remain on appeal..." in the first paragraph of the Supplemental Appeal Brief, Paper No. 19, filed 4/5/02. There has been no amendment provided by Applicant, or otherwise approved by the Office, to indicate that the other claims have been "cancelled." In the Reply Brief, filed 10/18/01, Appellant stated, "In reply to the Examiner's Answer, the appeal is dropped with reference to claims 1, 3, 7, 8, 18-21, 23, and 24, all of the appealed claims with the exception of claims 9 and 22." No mention was made of claims 2 and 4, which are also still active in the instant application.

Accordingly, the indication of claims pending in the application is uncertain because it is unclear if, in fact, claims 1, 3, 7, 8, 18-21, 23, and 24 are canceled. Further, the Supplemental Appeal Brief in response to this Office Action must either address claims 2 and 4 or be accompanied by an amendment canceling claims 2 and 4.

Regarding the period for response, note that MPEP 1206 states,

"The question of whether a brief complies with the rule is a matter within the jurisdiction of the examiner. 37 CFR 1.192(d) provides that if a brief is filed which does not comply with all the requirements of paragraph (c), the appellant will be notified of the reasons for noncompliance. Appellant will be given the longest of any of the following time periods to correct the defect(s):

(A) **1 month or 30 days from the mailing of the notification of non-compliance, whichever is longer;**

(B) within the time period for reply to the action from which appeal has been taken; or

(C) within 2 months from the date of the notice of appeal under 37 CFR 1.191.

Extensions of time may be granted under 37 CFR 1.136(a) or 1.136(b). The

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examiner may use the form paragraphs set forth below or form PTOL-462, "Notification of Non-Compliance with 37 CFR 1.192(c)," to notify appellant that the appeal brief is defective. The appeal will be dismissed if the appellant does not timely file an amended brief, or files an amended brief which does not overcome all the reasons for noncompliance of which the appellant was notified."

In the instant case, it appears that the longest period is the one in bold above.


Accordingly, **Applicant has one month to reply from the mailing date of this notice.**

Any inquiry concerning this communication from examiner should be directed to Erik Kielin whose telephone number is (703) 306-5980 and e-mail address is erik.kielin@uspto.gov. The examiner can normally be reached by telephone on Monday through Thursday 9:00 AM until 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri, can be reached at (703) 306-2794 or by e-mail at olik.chaudhuri@uspto.gov. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.


EK

September 26, 2002


Olik Chaudhuri
Supervisory Patent Examiner
Technology Center 2800